ordering the inbound inquiries with the priority values; and

informing the inbound inquirer of the time of the outbound contact attempt.

50.   (Previously Amended) A method for ordering inbound inquiries, the method comprising:

receiving plural inbound inquiries, from plural inquiry media, each inbound inquiry having associated inquiry information;

applying the inquiry information to one or more models to determine a priority value for each inquiry;

ordering the inbound inquiries with the priority values;

asking the inbound inquirer for a channel and time for a response; and

scheduling a response at the channel and time.

REMARKS

Applicants appreciate the time taken by the Examiner to discuss by telephone the Examiner's rejections of the claims of Applicants' present application. Applicants have carefully reviewed the Office Action mailed April 10, 2002 and have carefully considered the comments of the Examiner in the telephone conference. Claims 1-50 are pending in this Application and stand rejected by the Examiner. Applicant has amended Claim 1 to more clearly describe Applicants' original claimed invention. Applicants respectfully request reconsideration and favorable action in this case.

Rejection under 35 U.S.C. § 112, second paragraph

Applicants have amended Claim 1 to clarify that the estimated probability relates to the outcome of an inbound inquiry. Applicants respectfully request reconsideration and full allowance of Claim 1.

Rejections under 35 U.S.C. § 102(e)

Claims 1, 3-35, 37-44 and 46 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,088,444 issued to Jay S. Walker et al. (hereafter "Walker"). Applicants respectfully traverse.

Walker discloses a system that prioritizes incoming telephone calls based upon an economic value. The economic value is computed from information input by a caller, such as the number and price of items ordered, and customer status that indicates "a level of importance of the calling customer."

Claim 1 as amended recites "applying a model to the inquiry information to determine a priority value for each inquiry, the model estimating the probability of an outcome of an inbound inquiry having a predetermined result."

Claim 16 recites "applying the model to caller information of a pending inbound call to predict an outcome of the pending inbound call."

Claim 33 recites a "scheduling module operable to order the inbound inquiries . . . based in part on the predicted outcome of the inbound inquires."

Claim 39 recites "a scheduling module that prioritizes the inbound calls in accordance with forecasted outcomes for the inbound calls."

Claim 44 recites "applying the inquiry information to one or more models to determine a priority value for each inquiry."

Applicants respectfully submit that Walker cannot anticipate Claims 1-50 because Walker fails to teach, disclose or suggest the use of a model, probability or forecasted outcome to order inbound inquiries. In order to anticipate Applicants' claimed invention, Walker must expressly or inherently disclose within its four corners each limitation of each claim. *Glaverbel S.A. v. Northlake Mkt'g & Supp. Inc.*, 45 F.3d 1550 (Fed. Cir. 1995). The absence of any claimed element negates anticipation. *Kloster Speedsteel AB v. Crucible, Inc.*, 793 F.2d 1565 (Fed. Cir. 1986). Walker fails to disclose any model, any probability related to an outcome of an inbound inquiry or any forecast of an outcome for an inbound inquiry. Indeed, Walker discloses no more than the prior art described in Applicants' background (pg. 3, lines 7-9) and merely directs calls based on inputs by users applied to rules and data.

In a telephone conference, the Examiner admitted that Walker fails to expressly disclose the use of models and probabilities, but asserted that Walker inherently discloses a model in the "status" of the caller (Walker, 3:67 - 4:8), and that the status predicts outcomes because a caller with a history of purchases is more likely to purchase. The Examiner's rejection is improper as a matter of law and makes no sense when viewed in light of Walker as a complete document. In order to reject Applicants' claimed invention under the doctrine of inherency, the missing descriptive matter (i.e., models, probability and forecasted outcomes)

must *necessarily* be present. *In re Robertson*, 169 F.3d 743 (Fed. Cir. 1999). The mere fact that a certain thing may result from a given set of circumstances is not sufficient to establish inherency. *In re Rijckaert*, F.3d 1531 (Fed. Cir. 1993). **Walker has no need to predict a purchase outcome since the caller has already input the purchase**.

The customer status disclosed by Walker "is indicative of the level of importance of the calling customer," not predictive of the outcome of a call. Indeed, often a customer who has made a large quantity of purchases, as described in the example of Walker, is *less* likely to make additional purchases. Consider, for instance, the behavior of an auto buyer who just bought a new car or an airline passenger who already has a ticket – such customers are less likely to make additional purchases, not more likely as postulated by the Examiner. Since the customer status disclosed by Walker does not necessarily model probable or forecasted outcomes of inbound inquiries, the status cannot anticipate Applicants' claimed invention.

Further, the Examiner's rejections are completely baseless for Applicants' claims that recite specific modeling techniques and probabilities. For instance, Claims 10 and 27 recite probabilities of purchases for inbound inquiry outcomes. Walker has no need to predict purchase outcomes since **the caller in Walker inputs the items to be purchased**. Walker fails to teach disclose or suggest predictions of caller behavior regarding probability of call terminations based on hold time, as recited by Claims 11 and 28. Further, Walker fails to mention any specific model techniques such as regression analysis as recited by Claims 13, 24 and 25. Nor

does Walker touch in any way the use of optimization to improve inbound inquiry handling, as recited by Claims 29-32 and 42-43.

In summary, the Examiner's rejections based on Walker lack any basis in the law and misconstrue the disclosure of Walker. Walker merely queues calls based on caller inputs. not based on forecasted outcomes from caller inputs. Indeed, Walker has no need to forecast purchase outcome probabilities since the caller inputs purchase requests and is queued based on the inputs - in such a system there is nothing to predict. Accordingly, Applicants respectfully request that the Examiner reconsider the rejections based on Walker and allow all pending claims.

Rejections under 35 U.S.C. §103(a)

Claims 48-49 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Walker in view of U.S. Patent No. 6,002,760 issued to Doug Gisby (hereafter "Gisby"). Claim 50 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Walker in view of U.S. Patent No. 5,040,208 issued to Charles H. Jolissaint (hereafter "Jolissaint"). Applicants respectfully traverse the Examiner's rejection.

Claims 48-50 each recite "applying the inquiry information to one or more models to determine a priority value." As is explained above in greater detail, Walker fails to teach, disclose or suggest the use of models. Accordingly, Walker cannot make obvious Claims 48-50.

Applicants respectfully request the Examiner to withdraw the objections and rejections to Claims 1-50 and to allow these claims to pass to issuance.

CONCLUSION

Applicants have made an earnest effort to place this case in condition for allowance in light of the amendments and remarks set forth above. Applicants respectfully request reconsideration of the rejections and that a timely Notice of Allowance allowing Claims 1-50 be issued in this case.
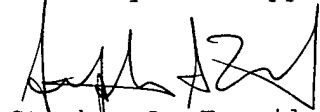
Attached hereto is a marked-up version of the changes made to the claims by the current amendments. The attached pages are captioned **"Version with Markings to Show Changes Made."**

Although Applicants believe that there are no additional fees due, the Commissioner is hereby authorized to charge any fees or credit any overpayment to Deposit Account No. of Hamilton & Terrile, L.L.P.

If there are any matters concerning this Application that may be cleared up in a telephone conversation, please contact Applicant's attorney at 512.322.2693.

Respectfully submitted,

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VERSION WITH MARKINGS TO SHOW CHANGES MADE

IN THE CLAIMS

Claim 1 has been amended as follows:

1.   **(Twice Amended)**   A method for ordering inbound inquiries, the method comprising:

receiving plural inbound inquiries, each inbound inquiry having associated inquiry information;

applying a model to the inquiry information to determine a priority value for each inquiry, the model estimating the probability of **an outcome of** an inbound inquiry having a predetermined result; and

ordering the inbound inquiries with the priority values.

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